

Pending Senator Pope's speech the following message was received from the House:

HOUSE OF REPRESENTATIVES,  
AUSTIN, March 6, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

SIR—I beg to inform the Senate that the House has passed

House bill No. 445, a bill to be entitled "An act to repeal exception four (4) to article 730, chapter 7, title 8, of the Code of Criminal Procedure of the State of Texas, in relation to persons competent to testify in criminal actions, and to permit the defendant in a criminal action to testify in his own behalf," under a suspension of the constitutional rule, and by two-thirds vote—yeas 87, nays 6, and

House bill No. 77, a bill to be entitled "An act to require railroad companies to keep and maintain permanently their general offices within the State of Texas at certain places, and to keep all books, accounts, etc., at said offices, and to provide penalties for failing to comply therewith,"

W. M. IMBODEN,  
Chief Clerk House of Representatives.

Senator Pope concluded his argument.

Senator Burges obtained the floor to speak to the pending question.

Senator Johnson moved to adjourn till 10 o'clock to-morrow morning with the understanding that Senator Burges have the floor when the special order is again submitted.

The motion was adopted, and

The Senate adjourned till 10 o'clock to-morrow morning.

#### FORTY-EIGHTH DAY.

SENATE CHAMBER,  
AUSTIN, March 7, 1889.

Senate met pursuant to adjournment.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Kimbrough,

The reading of the Journal of yesterday was dispensed with.

The following message was received from the House:

HOUSE OF REPRESENTATIVES,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

SIR—I beg to inform the Senate that the House has passed

Substitute House bills Nos. 102, 147 and 424, being "An act to be entitled an act to authorize the several counties of this State to employ penitentiary convicts upon the public roads and bridges of the State."

The House has concurred in the Senate amendments to

House bill No. 36, "An act to amend section 46, chapter 25, of the acts of 1885, entitled an act to amend chapter 79 of the acts of 1883, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22, 1879, and amended April 4, 1881, and April 12, 1883, and March 27, 1887."

The House has concurred in the Senate amendments to

House bill No. 290, entitled "An act to create and provide for the organization of the county of Irion."

W. M. IMBODEN,  
Chief Clerk House of Representatives.

The President referred the following bills:

Substitute for House bills Nos. 102, 147 and 424 to the

Committee on Penitentiaries.

House bill No. 77, to the

Committee on Internal Improvements.

House bill No. 445, to

Judiciary Committee No. 2.

After having publicly read their captions, the President gave notice of signing, and did sign in open session of the Senate,

Senate bill No. 25, "An act to repeal chapter 8 and articles Nos. 3924, 3925, 3926, 3927, 3928, 3929, 3930, 3921, 3032, 3933, 3934, 3935 and 3936 of title 79, of the Revised Statutes of Texas."

Senate bill No. 13, "An act to amend chapter 4, title XCV, of the Revised Civil Statutes of the State of Texas, by adding thereto article 4761a."

Senate bill No. 24, "An act to extend the time within which lands that have been sold for taxes and bought in by the State may be redeemed."

Senate bill No. 200, "An act to amend article 3597 of the Revised Civil Statutes of the State of Texas."

#### PETITIONS AND MEMORIALS.

By Senator Field:

Petition of nine citizens of Robertson county, opposing a railroad commission, and

Two petitions of citizens of Robertson county, one with twenty-eight and the other with eighty named,

praying for a reduction of excessive freight charges by railroads.

Referred to Committee on Internal Improvements.

Petition of citizens of Montague county, asking for a reduction of freight rates on railroads.

Referred to Committee on Internal Improvements.

By Senator Seale:

Petition of twenty-three citizens of Hardin county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Finley:

Two petitions of citizens of Sherman, favoring a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Simkins:

Petition of sixty-six farmers of Navarro county, praying the Legislature to fix the maximum freight at twenty-five cents per one hundred pounds per one hundred miles, and twelve and one-half cents for each additional one hundred miles.

Referred to Committee on Internal Improvements.

By Senator Jarvis:

Petition of citizens of Johnson county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Ingram:

Petition of citizens of Rusk county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

#### REPORTS OF STANDING COMMITTEES.

By Senator Kimbrough:

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred

Senate bill No. 318, entitled "An act making an appropriation for the payment of costs and officers of Marion county in suits instituted in the district court of Marion county under an act of the Legislature of the State of Texas, entitled an act providing for the condemnation and sale of land for delinquent taxes approved January 3, 1873,

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do not pass.

All of which is respectfully submitted.

KIMBROUGH,  
Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred

Senate bill No. 319, entitled "An act for the relief of the firm of W. D. Gatlington & Co., for loss on shipment of fruit incurred in the quarantine service of the State of Texas, about October 3, 1887,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do not pass.

All of which is respectfully submitted.

KIMBROUGH,  
Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred

Senate bill No. 329, entitled "An act for the relief of J. W. Norwood,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do not pass.

All of which is respectfully submitted.

KIMBROUGH,  
Chairman.

Bill read first time.

By Senator Burney:

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Education, to whom was referred

Senate bill No. 328, entitled "An act to amend section 17 of an act to establish and maintain a system of public free schools for the State of Texas, and to repeal so much of chapter 3, of title 78, of the Revised Civil Statutes as refer to public free schools outside of cities and towns, assuming or having assumed control of their public free schools, and all laws and parts of laws in conflict with this act, passed at the special session of the Eighteenth Legislature, which was presented to the Governor for his signature on the sixth day of February, 1884, and became a law without his approval,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

All of which is respectfully submitted.

BURNEY,  
Chairman.

Bill read first time.

By Senator Davis:

COMMITTEE ROOM,  
AUSTIN, March 6, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 102, being "An act to amend article 4434, title LXXXVII, chapter 5, of the Revised Civil Statutes of the State of Texas,"

And find the same correctly enrolled, and have this day, at 3:50 o'clock p. m., presented the same to the Governor for his signature.

DAVIS,  
Chairman.

By Senator Cranford:

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 241, being "An act to amend Revised Statutes by limiting the operations of said article to persons under disability,"

And find the same correctly engrossed

CRANFORD,  
Chairman.

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 250, being "An act for the protection of discharged employes and to prevent black listing,"

And find the same correctly engrossed.

CRANFORD,  
Chairman.

#### BILLS AND RESOLUTIONS.

By Senator McDonald:

A bill to be entitled "An act to amend article 4101, title 84, chapter 1, and article 4278, title 84, chapter 13 of the Revised Civil Statutes of the State of Texas, providing for and regulating the incorporation of railroad companies."

Referred to Committee on Internal Improvements.

#### SUBSTITUTE SENATE BILL NO. 247,

A bill to be entitled "An act to ratify and confirm the title of the Gulf, Colorado and Santa Fe Railway Company to the Central and Montgomery Railroad, and to the Chicago, Texas and Mexican Central Railroad, and to all property of the companies which constitute said roads, and to authorize the said Gulf, Colorado and Santa Fe Railway Company to own and operate said roads under its charter,"

Was laid before the Senate on its third reading.

The bill was read the third time, and

Pass-d by the following vote:

YEAS—21.

Armistead,	Jarvis,
Atlee,	Lane,
Burges,	Maetze,
Burney,	McDonald,
Claiborne,	Morris,
Cranford,	Pope,
Field,	Seale,
Finley,	Stephens,
Frank,	Tyler,
Harrison,	Woodward.
Ingram,	

NAYS—5.

Allen,	Kimbrough,
Glasscock,	Simkins.
Johnson,	

ABSENT—3.

Davis,	Upshaw.
Townsend,	

The President submitted the unfinished special order.

Senate bill No. 5, the railroad commission bill, with Senator Johnson's motion to substitute the House bill for the Senate bill pending.

(Senator McDonald, President pro tem in the chair.)

Senator Burges resumed the floor and spoke in opposition to the pending question.

Senator Harrison followed Senator Burges in an argument against the pending question.

(Senator Tyler in the chair.)

Senator Johnson argued the pending question, favoring a railway commission and his motion to substitute.

(The President in the chair.)

Senator Johnson offered the following amendment to his substitute for Senate bill No. 5.

Amend substitute by striking out all after the word "Texas," in line 1, and insert in lieu thereof the following:

That the terms railroads, railroad companies and railroad corporations, as used in this act, shall be taken to mean and embrace all corporations, companies, individuals, or association of individuals, their lessees and receivers, who may now, or may hereafter own, operate or control, either in whole or in part, any railroad in this State. The provisions of this act shall apply to all such corporations, companies, individuals or association of individuals, their lessees and receivers, who shall do the business of common carriers on any railroad in this State, whether they be incorporated or not. This act shall not in any of its parts be construed to apply to or affect the transportation of freight or passengers by any such railroad company, corporation or individuals from any other State or Territory of the United States, or any foreign country to or within or through the limits of this State, nor shall it apply to or affect the transportation of such freight or passengers from any point in this State beyond the limits thereof to any other State or Territory of the United States or any foreign country. Nor shall this act be construed to embrace, apply to or in any manner affect street railways.

Section 2. That if any railroad company heretofore organized under any general or special law of this State, or that may hereafter be so organized, or any such railroad company which by receiving the benefits of any legislation of this State, accepted the provisions of the constitution of this State, or any railroad company chartered by and organized under the laws of any State or Territory of the United States, doing business in this State, shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight of any description or for the use or transportation of any of its cars upon its track or upon the track of any of its branches, or upon the track of any railroad owned or operated by it, within this State, the same shall be guilty of extortion, and shall be subject to the penalties hereinafter prescribed, to be recovered as by this act directed.

Section 3. If any railroad as fore-said shall directly or indirectly charge to, or receive demand from any person or persons, for the carrying, receiving

or handling of freight of any kind or character, within this State, any greater or less rate or amount of compensation or reward, than is by it charged to or received from any other person or persons for like and contemporaneous services; or if any such railroad company, for receiving, forwarding, storing, handling or transportation; wholly within this State, of any kind or character of property whatever, shall charge to, receive or demand from any person or persons, a larger or greater amount of compensation for a shorter than a longer haul or distance on any railroad, such railroad company shall be deemed guilty of unjust discrimination, and pay the penalties hereinafter provided, to be recovered as in this act is directed.

Section 4. If any railroad company, such as is mentioned in this act, in the receiving, storing, forwarding or handling, or in the transportation of any freight of any kind or character whatever, or in the transportation of any passengers, where such freight or passengers are transported wholly within this State, shall make or give any preference or advantage to any person, firm, company, corporation, or to any locality, or to any particular class of freight, or shall subject the same to any unreasonable prejudice or disadvantage whatever, such railroad company shall be deemed to be and held guilty of unjust discrimination, and for every such act shall forfeit and pay to the State the penalties hereinafter specified, to be recovered in the manner herein directed.

Section 5. If any railroad or railroads in this State shall enter into any contract, agreement or understanding whatever by which rightful competition between such railroads or any of them, for carrying freights or passengers between points wholly within this State is prevented or in any way discouraged, each and every one of such railroads so offending shall be deemed and held guilty of unlawful combination, and shall each for every act of combination aforesaid forfeit and pay to the State of Texas the penalty hereinafter prescribed, to be recovered in the manner herein directed, each day of the continuance of either or any one of said contracts, agreements or understanding aforesaid, shall be held to constitute a separate and distinct act of unlawful combination as to each and every one of said railroads so entering into the same, and each of such railroads shall be liable

separately for the penalty affixed herein to each act of such unlawful combination.

Section 6. No railroad company as hereinbefore mentioned shall hereafter charge more than thirty cents per one hundred pounds for the transportation of one hundred pounds or less of freight of the first class, according to the classification hereafter to be made as herein directed, a distance of one hundred miles or less than fifty miles over any railroad in the State between points wholly within this State, nor more than twenty cents thereon for a distance of fifty miles or less, and said sums shall be deemed and held to be reasonable and just maximum charges for transporting one hundred pounds or less of freight of the first class as aforesaid for the distances aforesaid (taking the said sums as a basis, the railroads of this State shall fix reasonable and just maximum rates of freights and charges for the transportation of each class of freights, to be classified by them as hereinafter directed), and shall make reasonable and proper adjustment of the maximum charge hereinbefore fixed to freights of the first class, and the maximum rates and charges to be by them fixed for other classes, to the carriage of a larger quantity at the same time for the same person, or in car loads, and also to adjust the said charges equitably and justly as to longer and shorter hauls, which said classification and schedule of charges shall be submitted to the commission for its approval, and in case any railroad company should, fail, neglect or refuse to furnish the commission with such classification and charges, or should the commission refuse to approve the classification and charges so presented to them for approval, then said commission shall proceed to classify all such freights and arrange and fix maximum charges on the several classifications as above required of railroads, which classification and charges so arranged by the commission shall be the classification and charges for the railroad for which they are arranged, and shall prima facie be held to be reasonable and just classifications, and maximum charges for all classification below first-class, which maximum charge for first-class is hereinbefore fixed by this act, and no railroad shall be allowed to charge such classification and maximum charges arranged and established by such commission or approved by them, without their

consent, and any railroad, its officers or agents who shall classify their freights in a different manner or charge more than is provided for in such classification and arrangement of maximum charges by said commission shall be guilty of a misdemeanor and may on conviction be punished by a fine of not exceeding five thousand dollars, and every day which said changed classification may be acted upon or different charge made shall be a separate offense.

Section 7. No railroad company in this State shall hereafter charge exceeding three cents per mile for the transportation of passengers, and for children not over ten years of age and over five years of age not exceeding two cents per mile; for children not over five years of age no charge shall be made for such transportation. For each passenger over ten years of age who shall not procure a ticket before entering the cars of such railroads, four cents per mile may be charged by such railroads. Each person paying fare on any railroad in this State shall be entitled to have transported by such railroad his baggage, not to exceed one hundred pounds in weight; provided, that from stations at which no ticket office is kept open by such railroads the charge shall in no case exceed three cents per mile. It shall be the duty of all railroads in this State to keep their ticket office open and an agent to sell tickets to persons desiring to take passage on such railroads for at least one-half hour before the departure of the passenger trains on such road, and in case they shall fail so to do, no passenger shall be required to pay more than three cents per mile.

Section 8. It shall be the duty of each and every railroad company as aforesaid, to provide adequate, suitable and comfortable coaches for the transportation of passengers over its road, add to provide adequate, suitable buildings at its several stations for the reception and accommodation of its passengers, with reasonably safe and suitable platforms and approaches thereto. It shall likewise be the duty of such railroad companies and each of them to provide at each and every of its stations adequate, suitable and comfortable safe buildings and platforms and approaches thereto, and other things proper and necessary for receiving, storing, handling, forwarding and delivering all freights that may be tendered to it for shipment, or that may be by it transported to such station.

It shall moreover be the duty of all such railroad companies to construct, erect, build and keep in reasonably good and safe condition, its road bed, track, bridges, culverts, switches, side tracks, turn-outs and every part of its road, and also to keep in reasonably good and safe condition all street, alleys and public road crossings over its track, or over its side tracks or switches. Each such railroad shall provide and furnish adequate, suitable and reasonably safe coaches and cars, locomotives and other rolling stock and machinery for the transportation of freight over the line of its road. If any such railroad company shall fail, refuse or neglect to perform any of the duties herein enjoined upon them, then the commissioners to be appointed under this act shall notify such railroad company so failing, refusing or neglecting of the existence of the particular defect of which complaint is made, and which it is required to remedy, and shall specify in said notice a reasonable time within which said railroad shall remedy the said defect. Such notice shall be in writing, and may be served in the same mode as is by law prescribed for services of citation upon such railroad company.

If such railroad company shall deem the time allowed by said commissioners to be unreasonably short for compliance with the requirements, it may apply in writing to such commission for an extension of such time, and if the said commission shall believe that such railroad intends in good faith to comply with such requirements and to perform the duty herein enjoined, it may give such extension of time as it believes to be reasonable and just.

If any railroad company, such as is herein mentioned, shall fail or refuse to comply with the requirements of this section, after being notified as aforesaid, that each and every such railroad so failing, neglecting or refusing, shall be deemed to be guilty of violating this act, and each day that shall elapse between the expiration of the time allowed by and fixed by the commission as aforesaid, and the time when the said railroad shall comply therewith, shall constitute a separate and distinct act of violation of this act and for each such act of violating the provisions of this section, such railroad company or companies, and each of them, so guilty thereof shall forfeit and pay to the State of Texas the penalty hereinafter

specified, to be recovered as herein directed.

Section 9. Upon the taking effect of this act the Governor shall by and with the advice and consent of the Senate, if the Legislature be in session, appoint three suitable persons to be railroad commissioners of the State of Texas. If this act shall not take effect before the adjournment of the present session of the Legislature, then the Governor shall appoint the said persons as aforesaid; the persons appointed as aforesaid shall be resident citizens of the State and qualified voters under the laws of the State, and shall not be less than thirty years of age. Said commissioner shall each hold his office for two years from the date of his appointment, and until his successor is appointed and qualified; provided, that the term of office of those first appointed under this act shall expire on the first Monday after the organization of the next succeeding Legislature at its regular session, and so at the same time after the organization of each succeeding Legislature. At each regular session of the Legislature the Governor shall by and with the advice and consent of the Senate appoint the commissioners as before specified, and in case of vacancy by death, resignation, removal from office or otherwise, the Governor shall fill such vacancy until the next meeting of the Legislature. The said commissioners shall be known collectively as the railway commission of Texas, and it shall be charged with the enforcement of this act, and all other laws of this state concerning railroads. The Governor shall not appoint any person, who is directly or indirectly interested in any railroads in the State, or out of it, nor in the bonds, stock or other securities of either; and should any such commissioners voluntarily become so interested after his appointment, his office shall become vacant, and should any such commissioner after his appointment, by inheritance, or otherwise become so interested, he shall within thirty days thereafter, in good faith divest himself of such interest, and failing so to do, his office shall become vacant.

No commissioner appointed as aforesaid shall hold any office or other appointment under this State or under the United States, nor shall he engage in any business or employment inconsistent with his duties under this act. The Governor shall have power, for cause only, to remove said commis-



sioners, or either of them, from office, and if the Legislature be then in session, the Governor shall at once report such removal to the Senate, stating the cause or causes therefor, and if the Senate shall approve such removal, shall be dismissed from office, but if the Senate shall not approve of said removal, then the said commissioner shall be reinstated in his office. If the Legislature be not in session at the time of such removal, then the Governor shall make such removal in writing, stating the cause or causes for which it is made, and file the same in the office of the Secretary of State, who shall transmit to the commissioner so removed a certified copy thereof. and on the first day of the next session of the Legislature, whether at a regular or special session, the same shall be laid before the Senate for its action, if the Senate shall approve such removal, then the said commissioner shall be dismissed from his office, otherwise he shall be restored to his office as before, but such removal so made during the recess of the Legislature shall suspend said commissioner from the exercise of the functions of his office until the action of the Senate thereon shall be had. Before entering upon the duties of his office each of said commissioners shall take and subscribe the oath of office prescribed by the Constitution of the State, and in addition thereto shall swear that he is not directly or indirectly interested in any railroad in or out of this State, nor in the bonds, stocks or other securities of either; that he will faithfully and justly execute and enforce the provisions of this act, and all laws of this State concerning railroads, to the best of his ability, which oath shall be filed in the office of the Secretary of State. Each of said commissioners shall receive as a compensation of his services a salary of three thousand dollars per annum, to be paid as the salaries of other State offices are paid.

Section 10. Within fifteen days after their appointment the said commissioners shall meet at the city of Austin, and after taking the oath as herein prescribed shall organize by electing one of their number president, whose duty it shall be to preside at all meetings of the commission, and a majority of said commission shall constitute a quorum for the transaction of business. Said commission may appoint a suitable person as its secretary, who shall keep a full and correct account of all proceedings of the commission in a well bound book to be kept for

that purpose, and to receive, file and preserve for the inspection of the commission all complaints against railroads, and all other papers connected with the business of the said commission, and to perform such duties as may be prescribed by the commission. The secretary shall receive as a salary eighteen hundred dollars, and the assistant secretary shall receive a salary of one thousand dollars per annum, to be paid as the salaries of the clerks in the departments are or shall be paid. It shall be the duty of the commission to procure a seal for its use, which shall have a star of five points with the words "Railway Commission of Texas" engraved thereon. The commission shall be furnished with a suitable office in the Capitol building of the city of Austin, and with suitable and necessary furniture, all necessary stationery and supplies, to be paid for on the order of the Governor; provided, that the expenses of such commission for stationery and supplies shall not in any one year exceed one thousand dollars. Said commissioners and the said secretary shall be entitled to receive from the State their actual and necessary expenses incurred while traveling on the business of said commission, the same to be paid on the order of the Governor, upon an itemized statement thereof, sworn to by the party whose expense it was. The said commission shall have the power to make and adopt for its own government and that of its secretary all such rules and regulations as it may deem proper, and to amend, alter or change the same from time to time as may be necessary.

Section 11. As soon as practicable, not to exceed three months, from and after the taking effect of this act, all railroads doing business in this State are required to fairly and properly classify all of the property that may be transported over any such railroad as herein named, and to arrange the same into such general and special classes as may be proper and just, and to make reasonable and just charges for receiving, forwarding and handling and storing such freight, and to make reasonable and just maximum rates for the transportation of each and every class of freight so arranged, and adjust such maximum rates fairly and justly with reference to the quantity to be transported, the distance that it is to be hauled; provided, that no maximum rate of charges for the transportation of any class or classes

of freight shall ever exceed the maximum fixed by this act.

Section 12. The commission shall cause schedules in suitable forms to be made showing the classification of freight as approved by them and the maximum rates of freights as approved by them to each class, and shall cause a certified copy of such schedules approved by them as herein provided for, to be delivered to each railroad, at its principal office in this State, if it have such office in this State, and, if not, then to any agent of said company in this State, which said schedules, rules and regulations shall take effect at the date which may be fixed by said commission not less than thirty days from the delivery of such copies, the said railroad companies shall cause the said schedules to be printed and shall have the same posted up in a conspicuous place at each of its depots, so as to be inspected by the public, and such railroad shall, on application, furnish copies of the same to shippers over its railroad. Said commission may at any time abolish, alter, or in any manner amend the said schedules, or abolish or amend any such regulations, and in that event certified copies of the schedules, rules and regulations showing the changes therein shall be delivered to each railroad company as herein specified. All such schedules, rules and regulations, and all changes therein, when so made and notice given as aforesaid, shall be binding upon each and all of said railroads from and after the time specified. In all suits and proceedings against the said railroad companies under this act, certified copies of said schedules, both original and as amended, from time to time, shall be received as prima facie evidence that such rates of charge are reasonable and just maximum rates, and the classification of freights fair and just classifications thereof. The commission shall make such regulations as to the furnishing of copies thereof to other persons as may be deemed right, fixing such fees as they may believe to be fair and just therefor, but all fees paid to said commission or its secretaries shall be paid into the treasury of the State.

Section 13. When either of the commissioners shall know of any violation of this act or any law of this State, or when any complaint shall have been made to either of them by any person charging any such violation, the said commissioners, or either of them, shall investigate the complaint

so made, and if deemed to be well founded they shall cause to be instituted in the proper court having jurisdiction of the same a prosecution in the name of the State of Texas against such railroad company for such violation of the law, which suit shall be conducted by the county or district attorney or Attorney General—whose duty it may be—under the law and for the purpose of investigating complaints made or to secure information on which to act, they and each of them shall have power to issue subpoenas for witnesses, and to administer oaths and examine them in reference to the complaint so made or matters being investigated.

Section 14. The books of every railroad company in this State shall be open to inspection, and the commission may examine the same as often as it may deem necessary, and in connection therewith the commission may examine under oath any officer, agent or employe of such railroad company upon any matter relating to such books. Any such officer, agent or employe who, when so examined, shall fail or refuse to answer any question propounded to him by such commission, or who, when requested, shall fail or refuse to deliver to said commission any book or paper in his possession, or who shall, when requested, fail or refuse to reveal the whereabouts of any such book or paper, not in his possession, if he knows, and thereby conceal or keep the same concealed from the commission, or otherwise wilfully delay or hinder said commission in making any such examination, shall be guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, be punished by fine of not less than one hundred dollars nor more than five hundred dollars. The commission shall not be compelled to make any such examination unless information required by them cannot be otherwise obtained, but the said commission shall cause to be prepared suitable blanks with questions calculated to elicit all necessary information concerning railroads, and as often as it may deem necessary, furnish said blanks to each railroad company. Any railroad company receiving from the commission any such blanks, shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded; and the said answers duly sworn to by the proper officer of such company, and shall be returned to said commission



at its office in the city of Austin within thirty days from the receipt thereof. If any railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any question therein propounded, or shall evade the answer to any such question, such railroad company shall forfeit and pay to the State of Texas a penalty of one thousand dollars, and the commission shall institute suit therefor in the proper court. In any suit so instituted, the commission, either by itself or its attorneys, may propound interrogatories to, and take the deposition of any officer, agent or employee of such railroad company in the manner provided by law for taking the deposition of parties in other civil cases. All proper information concerning railroads shall, by the commission, be reported to the Governor, and the Governor shall at each session submit the same to the legislature.

Section 15. If a witness after being duly summoned shall fail to appear, or having appeared shall refuse to answer any question or questions propounded to him, and which he would be required to answer if in court, shall be guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction, shall be punished by fine of not less than one hundred dollars, nor more than five hundred dollars.

Section 16. Every witness attached on behalf of the State in any suit instituted under this act shall receive one dollar per day for each day that he may attend upon the trial thereof, and one dollar for each day that he may necessarily be absent from home in going to and returning from said place of trial, and also the sum of five cents per mile for each mile traveled in going to or returning from such trial by the nearest and most practicable route, which shall be paid by the State, on the order of the court trying the case, and all officers shall receive such fees for executing and returning process, issued at the instance of the State, as may be now or hereafter prescribed by law for like services. Provided, that defendant shall be liable for all costs, if cost in the suit.

Section 17. If any railroad company as aforesaid shall wilfully violate any of the provisions of this act by doing any act herein prohibited, or by failing, neglecting or refusing to perform any duty herein enjoined upon such railroads, then for every such act of violation thereof, said railroad company shall forfeit and pay to

the State of Texas not less than one thousand dollars nor more than eighteen hundred dollars. It shall be the duty of the commission to cause suit to be instituted in any court of this State, having jurisdiction of the same, to recover each and every penalty incurred by reason of this act or any law of this State, and shall lay before the Attorney General of the State the facts of each such violation, and if it is not convenient for him to prosecute the suit, then said commission may employ the district or county attorney of the district or county in which the suit is to be instituted to enter and prosecute the same. All suits for the recovery of any such penalty shall be in the name of the State of Texas against said railroad company, and shall be prosecuted in a separate suit for each penalty, or by joining two or more, as the commission may deem best, but no two suits brought for penalties shall be consolidated without the consent of the parties thereto. The officer or attorney who shall be engaged to prosecute either of said suits shall receive for his compensation ten per cent upon the amount that may be collected in each suit.

If any railroad company shall do any act, which, by the laws of Texas, works and causes a forfeiture of its charter, it shall be the duty of the commission to institute proper proceedings to declare such forfeiture, the Attorney General of the State controlling and prosecuting such proceeding. In the prosecution of any such suit, if deemed necessary, writs of mandamus, injunction, quo warranto, or any other proper writ that may be applicable to the case, may be sued out for the purpose of enforcing this act or any law of this State concerning railroads, which writs shall be issued as in other cases, except that in no instance shall bond be required of the State.

Section 18. No penalty prescribed by any existing law for the infringement or violation of the laws of this State or for any other reason shall be affected or repealed by this act, but this act shall be construed to be cumulative to all other laws, and the right of any person to recover from any railroad company shall in no wise be affected by the passage of this act, or by making complaint under the same by any such person.

Section 19. The railroad commission shall have the power to hold their investigations of complaints against railroads at any point in the State

which may be most convenient for procuring the attendance of the witnesses, and the better to secure justice to both parties.

Section 20. It shall be the duty of the said commission to see that the provisions of this act, and all laws of the State of Texas concerning railroads are enforced and obeyed and it shall prosecute vigorously every wilful violation of the same. But if it shall appear to said commission that such violation was not intentional, and that any such railroad company desires in good faith to obey the requirements of said laws, then said commission may waive prosecution for any such penalty, but in case suit has been instituted, and such railroad will afterward conform to the law and agree to obey its requirements in the future, said commission may file a written statement among the papers of such prosecution, and with the consent of the presiding judge may dismiss under such terms as may be agreed upon.

All penalties collected under the provisions of this act shall be deposited in the treasury of the State, to be disposed of as the Legislature may direct.

After having publicly read its title the President gave notice of signing and did sign in open session of the Senate House bill No. 200, "An act to create and provide for the organization of the county of Irion."

On motion of Senator Pope,

The Senate took a recess till 3:30 p. m.

#### AFTERNOON SESSION.

Senate met at 3:30 p. m.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Senator Davis sent up the following privileged reports:

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 24, being "An act to extend the time within which lands that have been sold for taxes and bought in by the State may be redeemed,"

And find the same correctly enrolled, and have this day, at 10:30 o'clock a. m., presented the same to the Governor for his signature.

DAVIS,  
Chairman.

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 25, being "An act to repeal chapter 8 and articles Nos. 3924, 3925, 3926, 3927, 3928, 3929, 3930, 3931, 3932, 3933, 3934, 3935 and 3936 of the Revised Statutes,"

And find the same correctly enrolled, and have this day, at 10:30 o'clock a. m., presented the same to the Governor for his signature.

DAVIS,  
Chairman.

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 200, being "An act to amend article 3597 of the Revised Civil Statutes of the State of Texas,"

And find the same correctly enrolled, and have this day, at 10:30 a. m., presented the same to the Governor for his signature.

DAVIS,  
Chairman.

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 13, being "An act to amend chapter 4, title XCV, of the Revised Civil Statutes of the State of Texas, by adding thereto article 4761a,"

And find the same correctly enrolled, and have this day, at 10:30 o'clock a. m., presented the same to the Governor for his signature.

DAVIS,  
Chairman.

By leave,  
Senator McDonald sent up the following committee report:

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Judicial Districts, to whom was referred

Substitute House bill No. 355, entitled "An act to amend an act entitled an act to amend section 16, of an act to redistrict the State of Texas into judicial districts, and to fix the times for holding the courts therein, and to provide for the election of judges and district attorneys in said districts, at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, approved March 30, 1885, approved March 30, 1887,"

Have had the same under consideration and instruct me to report it back to the Senate with the recommendation that it do pass, together with the following amendments:

Amend House bill No. 355.

Section No. 3. The near approach of the close of the present session of the Legislature and the fact that two terms of the district court of Montague county would be very near together and create unnecessary expenses on the county and State, create an imperative public necessity for the suspension of the constitutional rule which requires that all bills be read on three several days, said rule is therefore suspended, and an emergency exists that this act should take effect from and after its passage, and it is so enacted.

MCDONALD,  
Acting Chairman.

Bill read first time.

On motion of Senator Stephens, The regular order of business was suspended to take up

Substitute House bill No. 355, the bill just reported.

The bill was laid before the Senate, and

On motion of Senator Stephens,

The constitutional rule was suspended to read the bill the second time by the following vote:

YEAS—25.

Allen,  
Armistead,  
Atlee,  
Burgess,  
Burney,  
Cranford,  
Davis,  
Field,

Finley,  
Frank,  
Glasscock,  
Harrison,  
Ingram,  
Jarvis,  
Johnson,  
Kimbrough,

Lane,  
Maetze,  
McDonald,  
Morris,  
Pope,

Seale,  
Stephens,  
Tyler,  
Woodward.

NAYS—None.

ABSENT—4

Claiborne,  
Simkins,

Townsend.  
Upshaw,

The bill was read the second time with a committee amendment.

The committee amendment was adopted.

The bill as amended was passed to its third reading.

On motion of Senator Stephens,

The constitutional rule was suspended to put the bill on its third reading and final passage by the following vote:

YEAS—27.

Allen,  
Armistead,  
Atlee,  
Burgess,  
Burney,  
Claiborne,  
Cranford,  
Davis,  
Field,  
Finley,  
Frank,  
Glasscock,  
Harrison,  
Ingram,

Jarvis,  
Johnson,  
Kimbrough,  
Lane,  
Maetze,  
McDonald,  
Morris,  
Pope,  
Seale,  
Simkins,  
Stephens,  
Tyler,  
Woodward.

NAYS—None.

ABSENT—2.

Townsend.

Upshaw,

The bill was read third time and Passed by the following vote:

YEAS—27.

Allen,  
Armistead,  
Atlee,  
Burgess,  
Burney,  
Claiborne,  
Cranford,  
Davis,  
Field,  
Finley,  
Frank,  
Glasscock,  
Harrison,  
Ingram,

Jarvis,  
Johnson,  
Kimbrough,  
Lane,  
Maetze,  
McDonald,  
Morris,  
Pope,  
Seale,  
Simkins,  
Stephens,  
Tyler,  
Woodward.

NAYS—None.

## ABSENT—2.

Townsend, Upshaw.

The special order, Senate bill No. 5, the railway commission bill, was again laid before the Senate as unfinished business, with Senator Johnson's amendment to his substitute pending.

The amendment was adopted by the following vote:

## YEAS—23.

Allen,	Jarvis,
Armistead,	Johnson,
Atlee,	Kimbrough,
Burges,	Lane,
Burney,	McDonald,
Cranford,	Morris,
Davis,	Pope,
Field,	Seale,
Frank,	Stephens,
Glasscock,	Tyler,
Harrison,	Woodward.
Ingram,	

## NAYS—2.

Claiborne, Finley.

Senator Maetze announced a pair with Senator Upshaw, and asked to be excused from voting on the amendment.

On motion of Senator Harrison, Senator Maetze was excused from voting.

Senator Simkins stated that he was paired with Senator Townsend, and,

On motion of Senator Lane,

He was also excused from voting.

Senator Pope moved to postpone Senate bill No. 5, the railroad commission bill, and the substitute as amended, until the second day of April.

Before the vote was taken, Senator Simkins announced a pair with Senator Townsend; the former would vote "no," the latter "yea," if he were present.

Senator Johnson announced a pair with Senator Abercrombie; the former would vote "no," the latter would vote "yea" if he were present, and

Senator Maetze announced a pair with Senator Upshaw, the former would vote "no," the latter would "yea" if he were present.

The motion to postpone was adopted by the following vote:

## YEAS—15.

Armistead,	Burney,
Atlee,	Davis,
Burges,	Harrison,

Ingram,  
Jarvis,  
Lane,  
McDonald,  
Morris,

Pope,  
Seale,  
Stephens,  
Woodward.

## NAYS—10.

Allen,  
Claiborne,  
Cranford,  
Field,  
Finley,

Frank,  
Glasscock,  
Kimbrough,  
Tyler.

## PAIRED.

Abercrombie, aye,	Johnson, no,
Maetze, no,	Upshaw, aye,
Simkins, no,	Townsend, aye.

By leave, petitions and memorials were sent up as follows:

By Senator Davis:

Petition of fifty-eight citizens of Oakwood, Leon county, asking the Legislature to pass a law fixing a lower rate on freight charges by railroads.

Referred to Committee on Internal Improvements.

By Senator Stephens:

Petition of citizens of Haskell county, asking for a reduction of freight rates on railroads.

Referred to Committee on Internal Improvements.

Petition of citizens of Wichita county, asking for a reduction of railroad freights.

Referred to Committee on Internal Improvements.

Petition of citizens of Throckmorton county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Jarvis:

Petition of citizens of Jack county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Armistead:

Memorial of forty-eight persons of Marion county, opposing the railroad commission bill, and favoring the regulation of railways by fixing maximum rates of freight at twenty-five cents per one hundred pounds per one hundred miles and twelve and a half cents for each additional one hundred miles.

Referred to Committee on Internal Improvements.

By Senator McDonald:  
Petition of citizens of Fannin county,  
favoring a railroad commission.

Referred to Committee on Internal  
Improvements.

By Senator Glasscock:  
Petition of fourteen citizens of the  
city of Austin, Travis county, oppos-  
ing a railroad commission.

Referred to Committee on Internal  
Improvements.

By leave,

Senator Armistead sent up

A bill to be entitled "An act to  
amend article 4544, title 92 of the Re-  
vised Statutes of the State of Texas,"  
requiring county officers to furnish to  
the Commissioner of Insurance Sta-  
tistics and History, data in answer to  
questions propounded by said Com-  
missioner.

Referred to Committee on Insurance,  
Statistics and History.

On motion of Senator Armistead,  
Senator Jarvis was excused until  
next Monday, on account of sickness  
in his family.

On motion of Senator McDonald,  
Senator Johnson was excused for the  
balance of the afternoon.

On motion of Senator Burges,  
Senator Claiborne was excused un-  
til to-morrow.

On motion of Senator Simpkins,  
The regular order was suspended to  
take up

Substitute House bill No. 138, a bill  
to be entitled "An act to establish the  
county of Coke and define the district  
to which it shall belong,"

The bill was laid before the Senate  
and

Read the second time with a com-  
mittee amendment.

On motion of Senator Stephens,  
The committee amendment was ta-  
bled.

Senator Burney offered the follow-  
ing amendment:

Substitute to for the caption,  
House bill 138, a bill to be entitled  
"An act to create the county of Coke  
out of Tom Green county and to pro-  
vide for its organization."

Adopted.

Senator Burney moved to

Amend section 1, by striking out the  
word "south" in the last line of the  
section and insert therefore the word  
"north."

Adopted.

Senator Burney moved to

Amend section 3 by striking out the  
words, "within ten days after the pas-

sage of this act," in line (4) four, and  
insert therefor the words, "after the  
expiration of thirty days from the  
time this act takes effect."

Adopted.

The bill, as amended, was passed to  
its third reading.

On motion of Senator Simkins, the  
constitutional rule was suspended to  
put the bill on its third reading and  
final passage by the following vote:

YEAS—25.

Allen,  
Armistead,  
Atlee,  
Burges,  
Burney,  
Cranford,  
Davis,  
Field,  
Finley,  
Frank,  
Glasscock,  
Harrison,  
Ingram,

Johnson,  
Kimbrough,  
Lane,  
Maetze,  
McDonald,  
Morris,  
Pope,  
Seale,  
Simkins,  
Stephens,  
Tyler,  
Woodward.

NAYS—None.

ABSENT—1.

Townsend.

The bill was read the third time and  
passed by the following vote.

YEAS—25.

Allen,  
Armistead,  
Atlee,  
Burges,  
Burney,  
Cranford,  
Davis,  
Field,  
Finley,  
Frank,  
Glasscock,  
Harrison,  
Ingram,

Johnson,  
Kimbrough,  
Lane,  
Maetze,  
McDonald,  
Morris,  
Pope,  
Seale,  
Simkins,  
Stephens,  
Tyler,  
Woodward.

NAYS—None.

ABSENT—1.

Townsend.

By leave,  
Senator Pope sent up the following  
committee report:

COMMITTEE ROOM,  
AUSTIN, March 7, 1889.

Hon. T. B. Wheeler, President of the  
Senate:

Your committee on Internal Im-  
provements, to whom was referred

Substitute for House bills Nos. 9, 117, 136, 192 and 213, entitled "An act to define trusts and to provide for penalties and punishments of corporations, persons, firms and associations of persons connected with them and to promote free competition in the State of Texas,"

Have had the same under consideration and instruct me to report it back to the Senate with the recommendation that it do pass.

All of which is respectfully submitted.

POPE,  
Chairman.

Bill read first time.

On motion of Senator Stephens,  
The regular order of business was suspended to take up

Senate bill No. 26, a bill to be entitled "An act to authorize counties to fund their indebtedness and to provide means to pay the same."

The bill was laid before the Senate and

Read the second time, with a favorable committee report.

Senator Stephens offered the following amendment:

Amend section 1, line 3, inserting the words "compromise, compound, settle with and," after the word "empowered," and before the word "to," in said line, and to further amend said section by striking out the word "fifty," in line 16, and inserting in lieu thereof the words "twenty-five."

Adopted.

The bill as amended, was ordered engrossed.

Senator Stephens moved to suspend the constitutional rule to place the bill on its third reading and final passage.

Senator Burney moved a call of the Senate, there appearing no quorum.

Call sustained and Senators Cranford and Glasscock were found to be absent without excuse.

The Sergeant-at-Arms was dispatched to bring in the absent Senators.

Senator Glasscock was announced at the door

And

On motion of Senator Burges the call was suspended.

Senator Stephens' motion to suspend the constitutional rule was lost by the following vote:

NAYS—22.

Allen,  
Atlee,  
Burges,  
Burney,  
Cranford,  
Davis,  
Field,  
Finley,  
Frank,  
Glasscock,  
Harrison,

Ingram,  
Kimbrough,  
Lane,  
Maetze,  
McDonald,  
Pope,  
Seale,  
Simkins,  
Stephens,  
Tyler,  
Woodward.

NAYS—2.

Armistead,

Morris.

ABSENT—1.

Townsend.

Senate concurrent resolution No. 11, "requesting the members of Congress from the State of Texas to oppose the passage of the Blair bill pending in Congress of the United States," was laid before the Senate on its third reading.

The resolution was read the third time and passed.

Senate concurrent resolution No. 10, requesting Members of Congress from the State of Texas to urge upon the proper department of the general government the necessity of a separate marine district on the Texas, gulf coast, and the early establishment of the same,

Was laid before the Senate and read the second time.

The resolution was ordered engrossed.

Senate concurrent resolution No. 8, requesting Senators and Representatives from Texas in Congress to secure passage of joint resolution appointing a board of three engineers, officers of the United States army, to make examination of northwest coast of the Gulf of Mexico for the purpose of selecting the most suitable location for a deep water harbor, and to procure a permanent appropriation therefor,

Was laid before the Senate on its second reading.

The resolution was ordered engrossed.

On motion of Senator Lane,

Senate bill No. 211, a bill to be entitled "An act to regulate railroads doing business in the State of Texas, to fix maximum rates of freight charges on all classes of freight, to compel all such railroad companies to establish classifications on all kinds



of freights, and to divide all freights in classes ranging from one to ten inclusive, to prevent unjust discriminations, extortions, and to repeal all laws and parts of laws in conflict herewith,"

Was made the special order for tomorrow, and to be continued from day to day until disposed of.

On motion of Senator Pope,  
The Senate adjourned until 10 o'clock to-morrow morning.

#### FORTY-NINTH DAY.

SENATE CHAMBER,  
AUSTIN, March 8, 1889.

Senate met pursuant to adjournment.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Woodward,  
The reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS

By Senator Crauford:

Petition of citizens of Hopkins county, asking that freight rates of railroads be reduced to twenty-five cents per one hundred pounds for first one hundred miles and twelve and one-half cents for each additional one hundred miles.

Referred to Committee on Internal Improvements.

By Senator McDonald:

Petitions of citizens of Paris, Texas, favoring the creation of a State Board of Health.

Referred to Committee on Public Health.

By Senator Simkins:

Petition of twenty-nine farmers of Freestone county, praying for protection against discrimination of railroads.

Referred to Committee on Internal Improvements.

By Senator Burney:

A petition from nineteen citizens of Mason county, members of "Black Jack Alliance" No. 2323, urging the passage of a railroad commission bill.

Ordered to lie on the table to be

taken up with the railway commission bill on the second day of April.

#### REPORTS OF STANDING COMMITTEES.

By Senator Frank:

COMMITTEE ROOM,  
AUSTIN, March 8, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Penitentiaries, to whom was referred

Senate bill No. 149, entitled "An act for the building and completing of an additional State penitentiary in Central or Western Texas and procuring a site therefor with a view to the utilization of the convict labor of the State in the manufacture of cotton and woolen goods, leather and other goods and fabrics, and for mining, smelting and casting of iron ores, making an appropriation to purchase a site, erecting penitentiary building and manufacturing machinery and other incidental expenses thereto,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do not pass.

All of which is respectfully submitted.

FRANK,  
Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, March 8, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Penitentiaries, to whom was referred

Substitute House bills Nos. 102, 147 and 424, entitled "An act to authorize the several counties of this State to employ penitentiary convicts upon the public roads and bridges of the State,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do not pass.

All of which is respectfully submitted.

FRANK,  
Chairman.

Bill read first time.

#### BILLS AND RESOLUTIONS.

By Senator Glasscock:

A bill to be entitled "An act to authorize any person permitted by the